

REMARKS/ARGUMENTS

Reconsideration of the Rejections of the Office Action and allowance of the claims are respectfully requested in view of Applicants' remarks below.

Remarks Regarding Amendments

Claims 2-4 are canceled without prejudice or disclaimer.

The amendment to claim 11 is supported by original claim 6. New claims 12, 13, 14 and 15 are supported by original claims 7, 8, 9 and 10 respectfully (respectively??). New claim 16 is supported by claim 11. New claims 17, 18 and 19 are canceled claims 2, 3, and 4 moved to improve the order of the claims - with the independent claim 11 listed first and dependent claims 12-19 following.

No new matter is introduced by this amendment and its entry is requested.

Interview Summary

Applicants thank Examiner Lu for the courtesy of an interview on April 16, 2010. During the interview, the Examiner indicated that further limiting claim 11 to recite the properties of the polymer produce may lead to an allowable claim but that a further search would be required.

Remarks Regarding Section 103

A claimed invention is unpatentable if the differences between it and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art. *In re Kahn*, 78 USPQ2d 1329, 1334 (Fed. Cir. 2006) citing *Graham v. John Deere*, 148 USPQ 459 (1966). The *Graham* analysis needs to be made explicitly. *KSR v. Teleflex*, 82 USPQ2d 1385, 1396 (2007). It requires findings of fact and a rational basis for combining the prior art disclosures to produce the claimed invention. See *id.* (“Often, it will be necessary for a court to look to interrelated teachings of multiple patents . . . and the background knowledge possessed by a person having ordinary skill in the art, all in order to determine whether there was an apparent reason to combine the known elements in the fashion claimed by the patent at issue”). The use of hindsight reasoning is impermissible. See *id.* at 1397 (“A factfinder should be aware, of course, of the distortion caused by hindsight bias and must be cautious of arguments reliant upon ex post reasoning”). Thus, a prima facie case under Section 103(a) requires “some rationale, articulation, or reasoned basis to explain why the conclusion of obviousness is correct.” *Kahn* at 1335; see *KSR* at 1396.

Claims 2-4 and 11 stand rejected under 35 U.S.C. 103 as allegedly obvious in view of Hoang (U.S. Patent 6,583,082) and Gillis (WO/ 97/38019). Applicants traverse.

Solely in an effort to expedite prosecution, Applicants have amended claim 11 to recite the specific characteristics of the product (a polymer) that is produced by the claimed method. The claimed characteristics of the polymer is not disclosed or rendered obvious by a combination of the cited references.

All claim limitations must be considered in determining patentability of the claims against the prior art according to M.P.E.P. § 2143.03 and *In re Wilson*, 165 USPQ 494, 496 (CCPA 1970). When determining prima facie obviousness, all the limitations of the claims must be considered and given weight, including limitations which allegedly do not find support in the specification as originally filed (i.e., new matter). *Ex parte Grasselli*, 231 USPQ 393 (BPAI 1983). In this case, since a combination of the cited references

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fails to disclose or render obvious a limitation of claim 11, claim 11 cannot be obvious in view of the combination of the cited references. Claims 12-19 depend on claim 11, incorporate the recitations of claim 11, and are also not obvious for the same reason as claim 11.

Withdrawal of the Section 103 rejections is requested because the claims would not have been obvious to one of ordinary skill in the art when this invention was made.

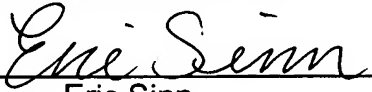
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CONCLUSION

Having fully responded to the pending Office Action, Applicants submit that the claims are in condition for allowance and earnestly solicit an early Notice to that effect. The Examiner is invited to contact the undersigned if additional information is required.

Respectfully submitted,

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